

## RULE 2001

### Transportation Conformity

#### (A) General

##### (1) Purpose:

- (a) The purpose of this rule is to implement section 176(c) of the Federal Clean Air Act (FCAA) as amended (42 U.S.C. 7506 et seq.), and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects. This is also intended to comply with the requirements promulgated by the United States Environmental Protection Agency (USEPA) as set forth in the provisions of Part 93, Subpart A, Chapter I, Title 40 of the Code of Federal Regulations (40 CFR 93).

##### (2) Applicability:

- (a) This rule shall apply to any action as specified in 40 CFR §93.102(a) (incorporated herein by this reference) and geographical area as specified in 40 CFR §93.102(b) (incorporated herein by this reference).
- (b) The following provisions and any duly adopted amendments thereto are hereby adopted by reference and are included as part of this rule as if fully set forth herein:
  - (i) 40 CFR §93.102(c) – Limitations
  - (ii) 40 CFR §93.126 – Exempt Projects

#### (B) Definitions

- (1) For the purpose of this rule the definitions contained in 40 CFR §93.101 shall apply; and
- (2) For the purpose of this rule, the following definitions shall apply.

- (a) “Air District” – the Mojave Desert Air Quality Management District (MDAQMD) or its successor agency.
  - (b) “Metropolitan Planning Organization” (MPO) - the Southern California Association of Governments (SCAG).
  - (c) “State Air Agency” - the California Air Resources Board (CARB).
- (3) For the purposes of this rule, all references to the following citations as contained within provisions adopted by reference should be deemed to refer to the alternative citations as listed below:
- (a) 40 CFR §93.105 shall be deemed to refer to subsection (C)(2) of this rule, Rule 2003 and/or the Memorandum of Understanding developed pursuant to this subsection, as appropriate.
  - (b) 40 CFR §93.119(c) shall be deemed to refer to subsection (D)(2)(a)(i) of this rule.
  - (c) 40 CFR §93.112 shall be deemed to refer to subsection (D)(3)(a) of this rule.
  - (d) 40 CFR §93.122(a)(4) shall be deemed to refer to subsection (E)(3)(a)(ii) of this rule.
  - (e) 40 CFR §93.125(c) shall be deemed to refer to subsection (E)(4)(a)(i) of this rule.

## (C) General Requirements for Transportation Conformity

- (1) The following provisions and any duly adopted amendments thereto are hereby adopted by reference and are included as part of this rule as if fully set forth herein:
  - (a) 40 CFR §93.103 - Priority
  - (b) 40 CFR §93.104 - Frequency of Conformity Determinations
  - (c) 40 CFR §93.106 - Content of Transportation Plans
  - (d) 40 CFR §93.107 - Relationship of Transportation Plan and TIP Conformity with the National Environmental Policy Act Process
  - (e) 40 CFR §93.108 - Fiscal Constraints for Transportation Plans and TIPs

- (2) This subsection substitutes for the provisions of 40 CFR §93.105 - Consultation:
- (a) Consultation criteria and procedures as required by 40 CFR 93, Part A shall be set forth as follows:
    - (i) Upon its effective date and from that day forward, in a Memorandum of Understanding (MOU) among the Air District, the Southern California Association of Governments, the California Air Resources Board, the California Department of Transportation, USEPA, the Federal Highway Administration, the Federal Transit Administration, the Riverside County Transportation Commission, San Bernardino Associated Governments, Caltrans, and all recipients of federal funds, and/or any subsequent adopted revisions or amendments to the MOU once such revisions are approved into the applicable state implementation plan by USEPA.
    - (ii) Until the effective date of the MOU referenced in subsection (C)(2)(a)(i) above, consultation criteria and procedures shall be utilized as set forth in Rule 2003 – Interagency Consultation for Transportation Conformity.
  - (b) Upon the effective date of the MOU referenced in subsection (C)(2)(a)(i) above, the provisions set forth therein shall apply and the provisions of Rule 2003 shall cease to apply.

(D) Criteria and Procedures for Determining Conformity of Transportation Plans, Programs and Projects

- (1) The following provisions and any duly adopted amendments thereto are hereby adopted by reference and are included as part of this rule as if fully set forth herein:
- (a) 40 CFR §93.109 - Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General
  - (b) 40 CFR §93.110 - Criteria and Procedures: Latest Planning Assumptions
  - (c) 40 CFR §93.111 - Criteria and Procedures: Latest Emissions Model
  - (d) 40 CFR §93.113 - Criteria and Procedures: Timely Implementation of Transportation Control Measures (TCMs).

- (e) [40 CFR §93.114](#) - Criteria and Procedures: Currently Conforming Transportation Plan and TIP
  - (f) [40 CFR §93.115](#) - Criteria and Procedures: Projects from a Plan and TIP
  - (g) [40 CFR §93.116](#) - Criteria and Procedures: Localized CO and PM10 Violations (Hot Spots)
  - (h) [40 CFR §93.117](#) - Criteria and Procedures: Compliance with PM10 Control Measures
  - (i) [40 CFR §93.118](#) - Criteria and Procedures: Motor Vehicle Emissions Budget
- (2) [40 CFR §93.119\(a-b\)](#) and (d-h) inclusive and any duly adopted amendments thereto are hereby adopted by reference and are included as part of this rule as if fully set forth herein.
- (a) This subsection substitutes for the provisions of [40 CFR §93.119\(c\)](#):
    - (i) This criterion may be met in PM<sub>10</sub> and NO<sub>2</sub> nonattainment areas; marginal and below ozone nonattainment areas and other ozone nonattainment areas that are not subject to the reasonable further progress requirements of [Clean Air Act §182\(b\)\(1\)](#); and moderate with design value less than 12.7 ppm and below CO nonattainment areas if a regional emissions analysis that satisfies the requirements of [§93.122](#) and paragraphs (e) through (h) of [40 CFR §93.119](#) demonstrates that for each analysis year and for each of the pollutants described in [40 CFR §93.119\(d\)](#), one of the following requirements is met:
      - 1. The emissions predicted in the “Action” scenario are less than the emissions predicted in the “Baseline” scenario, and this can be reasonably expected to be true in the periods between the analysis years; or
      - 2. The emissions predicted in the “Action” scenario are not greater than baseline emissions. Baseline emissions are those estimated to have occurred during calendar year 1990.
- (3) This subsection substitutes for the provisions of [40 CFR §93.112](#) – Criteria and Procedures: Consultation:

- (a) Conformity must be determined according to the consultation procedures in this rule and in the applicable implementation plan, and according to the public involvement procedures established in compliance with [23 CFR part 450](#).

(E) Additional Requirements for Determining Conformity of Transportation Plans, Programs and Projects

- (1) The following provisions are adopted by reference and any duly adopted amendments thereto are hereby included as part of this rule as if fully set forth herein:
  - (a) [40 CFR §93.120](#) - Consequences of Control Strategy Implementation Plan Failures
  - (b) [40 CFR §93.123](#) - Procedures for Determining Localized CO and PM10 Concentrations (Hot Spot Analysis)
  - (c) [40 CFR §93.124](#) - Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan (or Implementation Plan Submission)
  - (d) [40 CFR §93.127](#) - Projects Exempt from Regional Emissions Analyses
  - (e) [40 CFR §93.128](#) - Traffic Signal Synchronization Projects
- (2) [40 CFR §93.121](#) - Requirements for Adoption or Approval of Projects by Other Recipients of Funds Designated under [Title 23 U.S.C.](#) or the Federal Transit Laws and any duly adopted amendments thereto are hereby adopted by reference and included as part of this rule as if fully set forth herein.
  - (a) For the purposes of this subsection, “Adopt or approve a regionally significant highway or transit project” shall mean any of the following actions:
    - (i) Policy board action or resolution that is necessary for a regionally significant project to proceed.
    - (ii) Administrative permits issued under the authority of the agency, policy board, or commission for a regionally significant project;

- (iii) The execution of a contract to construct, or any final action by an elected or appointed commission or administrator directing or authorizing the commencement of construction of a regionally significant project.
  - (iv) Providing grants, loans or similar financial support, for the construction of a regionally significant project.
- (3) 40 CFR §93.122(a)(1-3), (a)(5-7) and (b-e) inclusive and any duly adopted amendments thereto are hereby adopted by reference and included as part of this rule as if fully set forth herein.
  - (a) This subsection substitutes for the provisions of 40 CFR §93.122(a)(4):
    - (i) Emissions reduction credit from control measures that are not included in the transportation plan and TIP and that do not require a regulatory action in order to be implemented may not be included in the emissions analysis unless the conformity determination includes written commitments to implementation from the appropriate entities.
      - 1. Persons or entities voluntarily committing to control measures must comply with the obligations of such commitments.
      - 2. Written commitments to control measures that are not included in the transportation plan or TIP must be obtained prior to a conformity determination and such commitments must be fulfilled.
- (4) 40 CFR §93.125(a-b) and (d) inclusive and any duly adopted amendments thereto are hereby adopted by reference and included as part of this rule as if fully set forth herein.
  - (a) This subsection substitutes for the provisions of 40 CFR §93.125(c):
    - (i) Written commitments to mitigation measures must be obtained prior to a positive conformity determination, and project sponsors must comply with such commitments.

[SIP: Submitted as amended 11/23/98 on \_\_\_\_\_; Submitted as amended 02/22/95 on \_\_\_\_\_]